



MAYOR AND COUNCIL AGENDA

NO. DEPT.: Community Planning and Development Services/Legal
STAFF CONTACT: Jeremy Hurlbutt, Planner I

DATE PREPARED: 7/18/05
FOR MEETING OF: 8/1/05

SUBJECT: Introduction and Adoption: Street Closing and Abandonment Application SCA2005-00094, for the permanent abandonment of a 5,509 square foot segment of the right-of-way for Chapman Avenue between Bouic Avenue and Halpine Road, Twinbrook Commons, LLC, applicant.

RECOMMENDATION: Staff recommends that this ordinance be introduced and adopted at the meeting of August 1, 2005. If the Mayor and Council wish to introduce the ordinance and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four members of the Mayor and Council, the Council may then proceed to move to adopt the ordinance.

DISCUSSION: The applicant has filed this abandonment application for a segment of Chapman Avenue totaling 5,509 square feet of land area. The abandonment area is located on the eastern portion of the right-of-way, is 7 feet wide and extends from the existing back of curb to the limit of the existing right-of-way. The abandonment will allow for wider sidewalks, café zones, and will provide for other streetscape design elements as approved in PDP for the Twinbrook Commons, LLC project.

The Mayor and Council held a public hearing on this application on July 11, 2005. Three members of the public spoke and were concerned that the notification termed the application a street closing. It was explained at the hearing that the application is not a street closing, but an abandonment of a portion of the public right-of-way to allow wider sidewalks. Questions were also raised about the width of the sidewalks in the area to be abandoned. The sidewalk width in the area to be abandoned will be 19 feet, except for the northernmost section that provides access to the parking structure where it will be 15 feet.

Staff recommends that the abandonment be conditioned on the grant of an easement to all utility companies with facilities within the subject area, including PEPCO, which has overhead, underground, and service facilities in the subject area.

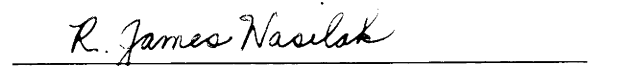
The Mayor and Council at their meeting on July 25, 2005 instructed staff to prepare an ordinance abandoning the street as recommended.

Boards and Commissions Review: The Planning Commission reviewed this application on May 25, 2005 and unanimously recommended approval. Their recommendation is attached.

PREPARED BY:


Jeremy Hurlbutt, Planner I

APPROVED BY:


R. James Wasilak, AICP, Chief of Planning

1-20-05

DATE:

APPROVED BY:


Arthur D. Chambers, AICP, Director

1/20/05

DATE:

APPROVED BY:


Scott Ullery, City Manager

7/27/05

DATE:

LIST OF ATTACHMENTS:

1. Ordinance Adopting Street Closing
2. Location Map
3. Planning Commission Recommendation
4. Staff Report to the Planning Commission
5. Application for Abandonment

Ordinance No. _____

ORDINANCE: To grant Street Closing and Abandonment
Application No. SCA2005-00094,
Twinbrook Commons, LLC, Applicant

WHEREAS, Twinbrook Commons, LLC, filed application No. SCA2005-00094, requesting that a 7 foot wide segment of the east side of Chapman Avenue north of Bouie Avenue and south of Halpine Road, located in the Twinbrook Commons development area, containing a total of 5,509 square feet of land, more or less, lying in the Fourth Election District (City of Rockville), Montgomery County, Maryland, be permanently closed and abandoned pursuant to the provisions of Chapter 21, Article III, Division 2 entitled "Permanent Closing and Abandonment," of the Rockville City Code; and

WHEREAS, the Washington Metropolitan Area Transit Authority (WMATA), the owner, according to the assessment records, of property adjacent to the public right-of-way, which is the subject of the aforesaid application, and all public utility companies authorized by the Public Service Commission to operate within the City of Rockville, were duly notified by certified mail that said application had been filed and that a public hearing thereon would be held as specified in the public advertisement of the Mayor and Council of Rockville, Maryland; and

WHEREAS, the Mayor and Council of Rockville gave notice that a public hearing on said application would be held by the Mayor and Council of Rockville in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland on July 11, 2005, at 7:00 p.m., or as soon thereafter as it may be heard, which notice was published not less than ten days prior to the time of such hearing in a newspaper of general circulation in the City of Rockville; and

WHEREAS, on July 11, 2005, said application came on for hearing at the time and place provided in said advertisement; and

WHEREAS, the Planning Commission of the City of Rockville recommends that the application be approved as set forth in a memorandum to the Mayor and Council dated May 26, 2005; and

WHEREAS, based upon the testimony presented and other evidence of record in the proceedings, the Mayor and Council determined that the granting of the application would not adversely affect the health, safety, security and best interests of the community of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

1. That Street Closing and Abandonment Application No. SCA2005-00094, for the closing and abandonment of a 7 foot wide segment of the east side of Chapman Avenue north of Bouic Avenue and south of Halpine Road, located in the Twinbook Commons development area, containing a total of 5,509 square feet of land, more or less more or less, be and the same is hereby granted being more fully described on Exhibit A, and shown on Exhibit B attached hereto.

2. That this ordinance shall become effective upon the last of the following to occur:

A. Recordation of this Ordinance in the Land Records for Montgomery County, Maryland; and

Ordinance No. _____

B. The recordation in the Land Records of Montgomery County, by the Applicant of a utility easement to allow all utility providers access and maintenance to such utilities as may be needed within the area to be abandoned, in a form acceptable to the City Attorney.

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of

Claire F. Funkhouser, City Clerk



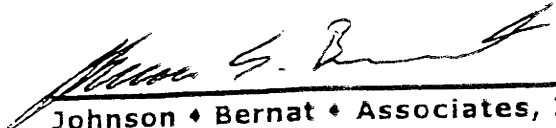
EXHIBIT "A"

**DESCRIPTION OF A PARTIAL ABANDONMENT
CHAPMAN AVENUE
PLAT 3043
FOURTH ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND**

BEING part of Chapman Avenue (60' Right-Of-Way) as recorded among the Land Records of Montgomery County, Maryland, in Plat Number 3043 and being more particularly described as follows:

BEGINNING at a point of intersection on the east line of Chapman Avenue and the north line Halpine Road as shown on a plat recorded among the Land Records of Montgomery County, Maryland, on a Plat 3043 and running thence along the east line of Chapman Avenue crossing and including portions of said Chapman Avenue Right-of-way the following four (4) courses,

1. South 33°24'41" East, 720.27 feet to a point; thence
2. South 56°35'19" West, 7.00 feet to a point; thence
3. North 33°24'41" West, 725.23 feet to a point; thence
4. South 88°06'21" East, 8.58' feet to the POINT OF BEGINNING, containing 5,059 square feet or 0.11614 acres of land.


Johnson ♦ Bernat ♦ Associates, Inc.
Adam S. Bernat, L.S.

4/21/2005
Date:

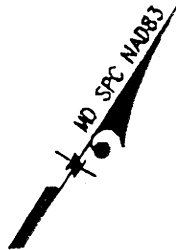


Engineering ♦ Surveying ♦ Planning

1395 Piccard Drive, Suite 350 ♦ Rockville, MD 20850 ♦ (301) 963-1133 ♦ (301) 963-6306 Fax
www.jba-inc.net

EXHIBIT "B"
CHAPMAN AVENUE
PARTIAL ABANDONMENT
FOURTH ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

HALPINE RD.
(80' R.O.W.) PLAT 3043



PARCEL "A" BLOCK 10
HALPINE
PLAT NO. 13468



J.B.A.

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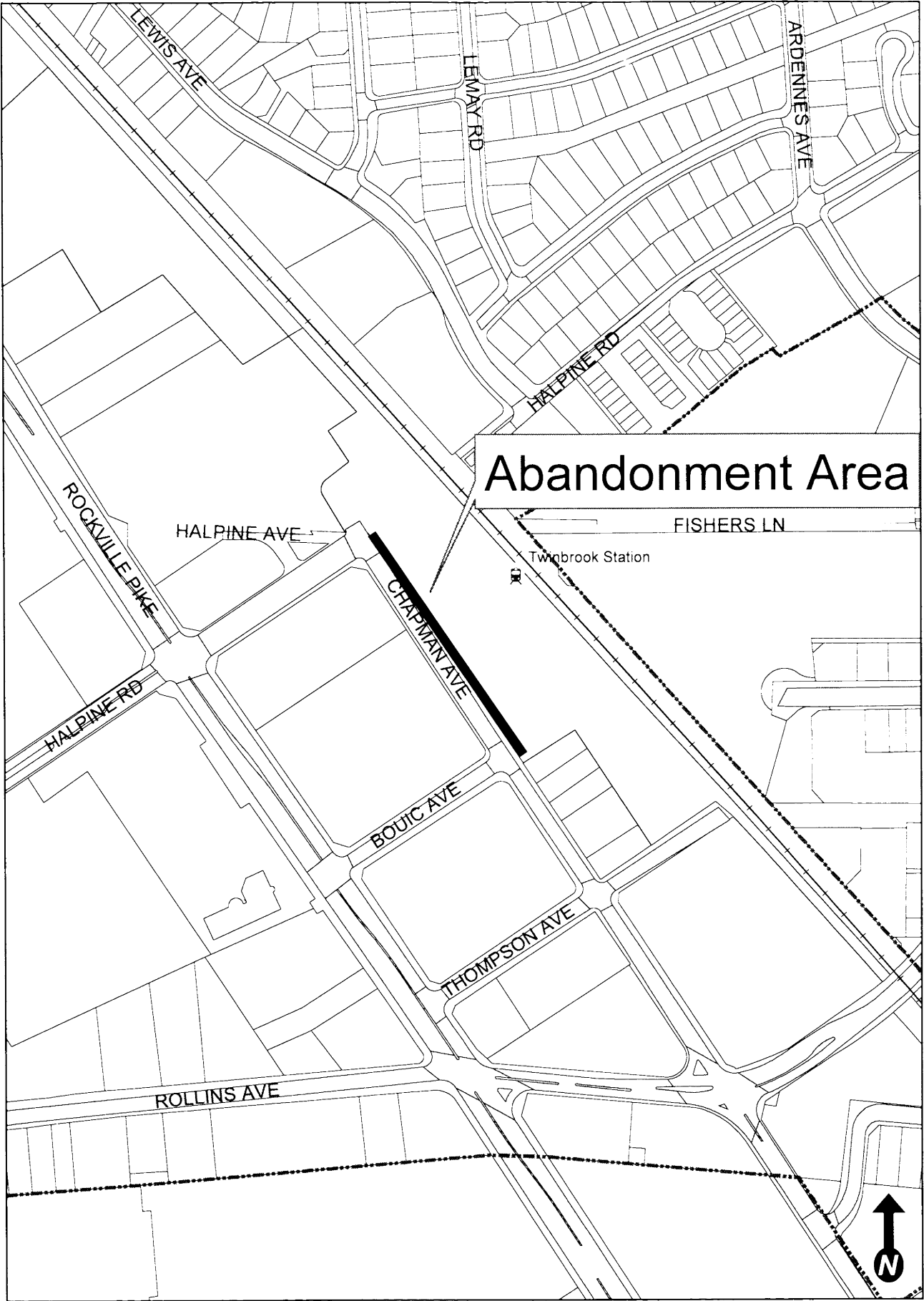


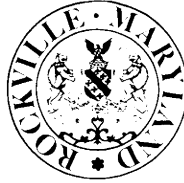
DRAWN BY: BWJ
TRACED BY: _____
CHECKED BY: ASE
DRAWING NO: 03-071

SPRING LAKE PARK HALPINE SUBDIVISION

4TH ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND

SCALE: 1"=30'	REVISIONS
DATE: 4/20/2005	
PROJECT NO: 03-071	
SHEET 1 OF 1	





City of Rockville

MEMORANDUM

May 26, 2005

TO: Mayor & Council

FROM: Planning Commission

SUBJECT: Recommendation on Street Closing and Abandonment application SCA2005-00094, Mayor and Council, Applicant

At its meeting of May 25, 2005 the Planning Commission reviewed the above referenced street abandonment application. The section of Chapman Avenue described in the application is located between Halpine Road and Bouic Avenue. The area involved is a 7ft portion of right-of-way on the east side of Chapman Avenue extending from the existing right-of-way to the back of the existing curb.

The Planning Division Staff Report recommended approval of the application as being necessary for the ultimate development of the Twinbrook Commons project.

The Planning Commission received comments from the Applicant, Planning staff, Legal staff and Citizens. No other comments were received.

The Planning Commission is in agreement with the planning staff's recommendation. Therefore the Planning Commission, on motion of Commissioner Hilton, and seconded by Commissioner Holtz, recommends approval of the proposed street abandonment by a vote of 6 to 0 with one member absent.

Cc: Planning Commission

**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

ATTACHMENT 4

May 25, 2005

SUBJECT: Road Abandonment Application
SCA2005-00094

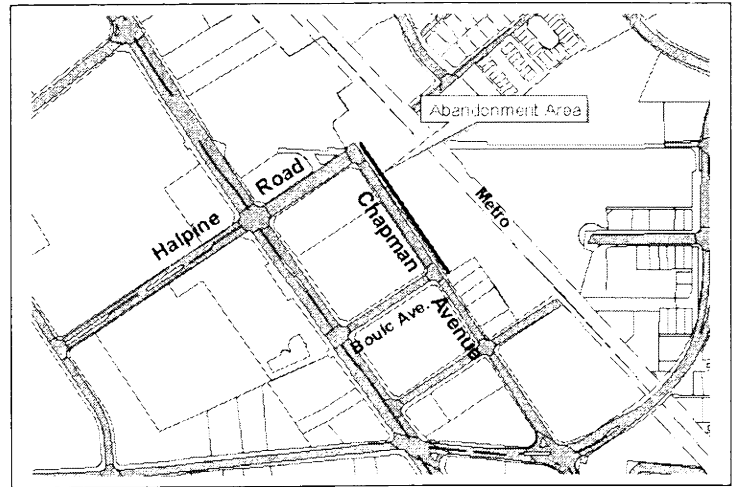
Applicant: Twinbrook Commons LLC
4445 Willard Avenue
Chevy Chase, MD 20815

Owner: Twinbrook Commons LLC

Date Filed: May 6, 2005

Public Hearing: July 11, 2005

Location: The east side of Chapman Avenue
between Bouic Avenue and Halpine Road



REQUEST:

The applicant requests the abandonment of portions of the right-of-way of Chapman Avenue between Bouic Avenue and Halpine Road.

STAFF RECOMMENDATION: Approval

ANALYSIS

Property Description

Application SCA2005-00094 proposes the abandonment of portions of the right-of-way for Chapman Avenue. The portion runs along the east side of the right-of-way and is needed to provide a consistent streetscape for the proposed Twinbrook Commons development. This is consistent with the approved PDP.

Project Proposal

SCA2004-00094 proposes to abandon the right-of-way along the east side of Chapman Avenue from the back of the curb to the edge of the existing right-of-way between Bouic Avenue and Halpine Road. This area has a width of seven feet and encompasses a total land area of 5,059 square feet or about 0.12 acres. The approved right-of-way for Chapman Avenue will end at the back of the existing curb, with the sidewalk and street trees within a public easement on private property. In the Twinbrook Commons project, a Commercial Management District will be established that will be responsible for maintaining the sidewalk and the street tree areas. A public access easements will cover the abandoned protion of the right-of-way.

The right-of-way for Chapman Avenue between Bouic Avenue and Hapline Road was dedicated at approximately 60 feet wide in anticipation of being constructed in the normal configuration. With the approval of the abandonment permit, the right-of-way for Chapman Avenue will be reduced to a

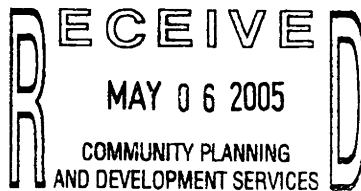


nominal 53 feet in width. SCA2005-00094 will establish a revised public right-of-way and provide for sidewalk, street tree, and café zone improvements.

CONCLUSION

Staff finds that the proposed abandonments can be approved. The proposed abandonment is consistent with the street configurations for the rest of the Twinbrook Commons Preliminary Development Plan and the abandonment does not adversely affect the street or traffic.

May 5, 2005



PATRICIA A. HARRIS
301-215-6613
patricia.harris@hklaw.com

VIA UPS

Attachment #5

Mr. Deane Mellander
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20852

RECEIVED
CITY CLERK'S OFFICE
2005 MAY - 6 PM 1:48

Re: Twinbrook Commons –
Abandonment of Portion of Chapman Avenue

Dear Mr. Mellander:

Enclosed please find an Abandonment Application for a portion of the Chapman Avenue right-of-way. The abandonment of this area will provide for consistent treatment of the sidewalks throughout Twinbrook Commons and allow for the establishment of café zones within this area along Chapman Avenue.

As we discussed, it is your intent that the Abandonment Application will be considered by the Planning Commission at the same time they consider the Use Permit for either the West Side (tentatively scheduled for May 25, 2005) or the East Side (tentatively scheduled for June 8, 2005).

Please do not hesitate to contact me if you have any questions regarding this matter.

Very truly yours,

HOLLAND & KNIGHT LLP

A handwritten signature in dark ink, appearing to read "Patricia A. Harris".

Patricia A. Harris

Enclosures

cc: Mr. Rod Lawrence
Ms. Rosalyn Doggett

2826354_v1

APPLICATION TO CLOSE
AND ABANDON
PUBLIC WAY
ROCKVILLE, MARYLAND

NOTICE This application must be typewritten or printed and filed in duplicate, with attachments, in the office of the City Clerk.

WMATA*

Twinbrook Commons LLC (long term lessee)

Name of Applicant

4445 Willard Avenue

Street Address

Chavy Chase, Maryland 20815

City State Zip Code

(240) 333-3600

Telephone No.

TO BE FILLED IN BY THE CLERK:

Application No: SCA2005-00094

Filing Date: 5/6/05

Hearing Date: 7/11/05

Decision and Date: _____

The undersigned hereby makes application with the Mayor and Council of Rockville, Maryland, for the permanent closing and abandonment of the public way described herein, and in support of such application supplies the following information:

- (a) The name and address of the undersigned are as indicated above.
- (b) The public way which is the subject of this application is generally described by name and United States Post Office numbering or intersecting streets as follows: East side of Chapman Avenue, north of Bouie Avenue,
South of Halpine Road

- (c) The interest of the undersigned in such public way is as follows:

See attached

- (d) The reasons for making such application are as follows:

See attached

*WMATA (Fee Owner)

600 Fifth Street, N.W.

Washington, D.C. 20001

(202) 962-2208

- (e) A description by metes and bounds of the public way which is the subject of this application is as follows:

See attached

- (f) According to assessment records, all of the owners of real property immediately adjacent to the public way, which is the subject of this application, are as follows:

Name

Address

1. WMATA

600 Fifth Street, N.W.
Washington, D.C. 20001

Signature of Attorney

[Signature]

Signature of Applicant

ROD LAWRENCE

FOR: Twinbrook Commons L.L.C.

Subscribed and sworn to before me this 5th day of May,
2005.

Reema Lee Miller
commissioned as

Reema Lee Miller

Notary Public

My Commission Expires: 5/24/2005

#9:ST.CLO

REEMA LEE MILLER NOTARY PUBLIC HOWARD COUNTY MARYLAND MY COMMISSION EXPIRES MAY 24, 2005
--

Washington Metropolitan Area
Transit Authority

By: Gary Maloney

Title: Managing Director Property Development

Subscribed and sworn to before me this 14th day of May, 2005.

Cynthia G. Jenkins
Notary Public
My Commission Expires: 12/23/09

Cynthia G. Jenkins
Notary Public - District of Columbia
My Commission Expires 12/23/09

Cynthia G. Jenkins
Notary Public - District of Columbia
My Commission Expires 12/23/09
4/18/09

Statement of Justification Abandonment of Portion of Chapman Avenue

Twinbrook Commons LLC and the Washington Metropolitan Area Transit Authority (the "Applicant") are requesting the abandonment of a portion of the Chapman Avenue right-of-way. More specifically, Applicant is requesting the abandonment of that portion of the right-of-way that runs along the eastern side of Chapman Avenue for the entire frontage of the Twinbrook Commons, from the back-of-curb to the eastern edge of the existing right-of-way. This area has a width of seven feet to feet and encompasses a total land area of 5,059 square feet.

The abandonment is consistent with the overall objectives of the Twinbrook Commons Project and will achieve the following:

1. Consistent treatment of streets throughout Twinbrook Commons whereby the City's interest in the right-of-way runs from back-of-curb to back-of-curb.
2. The sidewalk area from the back-of-curb to the building face will be the responsibility of Applicant and subject to a Declaration of Covenant granting unobstructed access to the public.
3. The ability to establish café zones within the sidewalk area extending from the back-of-curb to building face.

The ability to establish the desired café zones within the area from back-of-curb to the building face provides a tremendous benefit and helps to ensure the creation of an enlivened, active streetscape. Importantly, the abandonment process was used in the Town Center project to achieve the same objective of creating flexible public space and allowing for the establishment of café zones adjacent to certain rights-of-way.

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4. South 88°06'21" East, 8.58' feet to the **POINT OF BEGINNING**, containing 5,059 square feet or 0.11614 acres of land.




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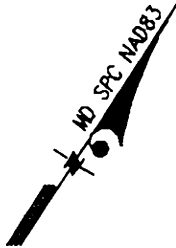
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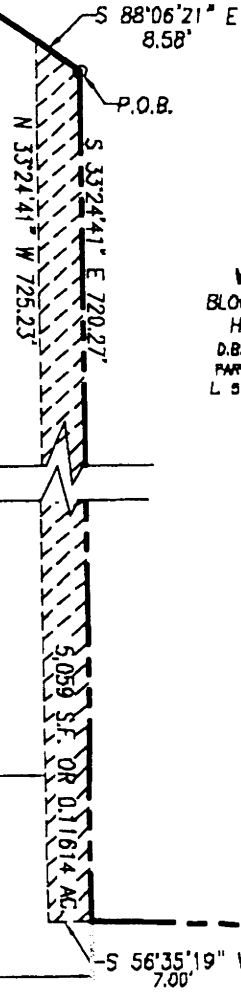
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HALPINE RD.
(80' R.O.W.) PLAT 3043

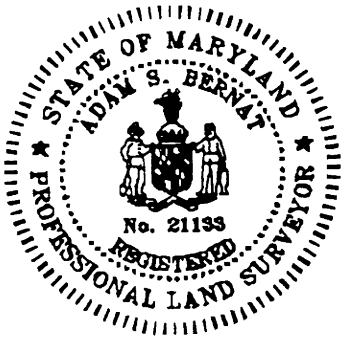


PARCEL "A" BLOCK 10
HALPINE
PLAT NO. 13468

CHAPMAN AVE.
(60' R.O.W.) PLAT 3043



WMATA
BLOCK NO. 2
HALPINE
D.B. 2823 P. 5
PARCEL MA419
L. 9190 F. 137



J.B.A.

Johnson Bernat Associates, Inc.

1395 Piccard Drive, Suite 350
Rockville, Maryland 20850
Tel. (301) 963-1133
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DRAWN BY: BWJ
TRACED BY: _____
CHECKED BY: ASB
DRAWING NO: 03-071

SPRING LAKE PARK HALPINE SUBDIVISION

4TH ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND

SCALE: 1"=30'
DATE: 4/20/2005
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SHEET 1 OF 1

REVISIONS